

AG Contract No.: KR03-1032TRN
ADOT ECS File: JPA 03-051
Project No. HRF- STJ-0-784
TRACS No HF084 01C
Section: 4th Street North Reconstruct
HURF Exchange Program

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND THE CITY OF ST. JOHNS

THIS AGREEMENT is entered into 11 December, 2003, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF ST. JOHNS acting by and through its MAYOR and CITY COUNCIL (the "City").

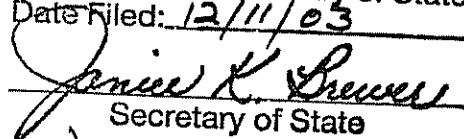
I. RECITALS

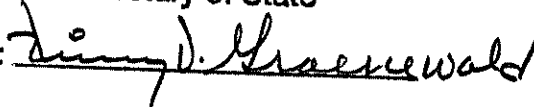
1. The State is empowered by Arizona Revised Statutes Section 28-6993(g) to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State

2. The City is empowered by Arizona Revised Statutes Section 48-572 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the City

3. The State has approved the exchange of \$419,000.00 Highway User Revenue Funds (HURF) in Fiscal Year 2003 to the City for the construction of improvements to 4th Street North, and such funds will be repaid to the State by withholding from the Northern Arizona Council of Governments (NACOG) federal funds and the obligation authority for federal funds in the amount of \$447,527.00 in Fiscal Year 2003.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows

NO. 26476
Filed with the Secretary of State
Date Filed: 12/11/03

Secretary of State

By: 

II. SCOPE OF WORK**1. The City will:**

a. Provide design plans, specifications and such other documents and services required for construction bidding and construction.

b. Call for bids and award one or more construction contracts for the project. Administer same, and make all payments to the contractor(s). Be responsible for any additional funds required to complete the project and for any contractor claims for extra compensation due to delays or whatever reason. Comply with all applicable State laws, rules and regulations.

c. Invoice the State for thirty percent of the project construction cost, at the start of construction.

d. Invoice the State for thirty percent of the project construction cost, at the sixty percent construction completion stage, and for thirty percent of the project cost at the ninety percent project construction completion stages.

e. Upon completion, approve and accept the project as complete and provide maintenance. Provide ADOT with a letter documenting the notice of the approval and acceptance of the project.

f. Invoice the State for the remaining ten percent of the project cost at the one hundred percent project completion stage after the City, NACOG, and the State (ADOT) representatives have completed final project review.

2. The State will:

a. Within 30 days after receipt and approval of an invoice, pay for the project cost at the thirty percent project completion state, and for thirty percent of the project cost at the sixty percent project completion state, and for thirty percent of the project cost at the ninety percent project completion state, and pay 10 percent upon completion of construction.

b. Withhold from NACOG, federal funds and the obligation authority of federal funds \$447,527.00 in Fiscal Year 2003 for construction.

III. MISCELLANEOUS PROVISIONS

1. The State assumes no liability under this agreement. The City assumes full responsibility for the design, plans and specifications, reports, the engineering in connection therewith, cost over-runs and claims. It is agreed that the State's participation is confined solely to advancing highway user revenue funds; that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of the City and that the City hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees, the City, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, and expenses of litigation or attorneys' fees.

2. Non-Discrimination. The contractor shall comply with Executive Order 99-4, which mandates that all persons, regardless of race, color, religion, sex, age, national origin or political affiliation shall have equal access to employment opportunities, and all other applicable state and federal employment laws, rules and regulations, including the Americans With Disabilities Act. The contractor shall take affirmative action to ensure that applicants for employment and employees are not discriminated against due to race, creed, color, religion, sex, age, national origin or political affiliation or disability.

3. Non-Availability of Funds. Every payment obligation of State and the City under this contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this contract, this contract may be terminated by the State and the City at the end of the period for which the funds are available. No liability shall accrue to the State and the City in the event this provision is exercised, and the State and the City shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

4. This agreement shall remain in force and effect until completion of said project; provided, however, that this agreement, except any provisions herein for maintenance, which shall be perpetual, unless assumed by another governmental entity, may be canceled at any time prior to the award of a construction contract, upon thirty (30) days written notice to the other party.

5. This agreement shall become effective upon filing with the Secretary of State.

6. This agreement may be canceled in accordance with Arizona Revised Statutes Section 38-511.

7. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

8. In the event of any controversy, which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

9. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation
Joint Project Administration
205 S. 17th Avenue – Mail Drop 616E
Phoenix, AZ 85007


City of St. Johns
Public Works Director
245 West 1st South
St. Johns, AZ 85936

8. In Accordance with Arizona Revised Statutes Section 11-952, (D) attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

CITY OF ST. JOHNS

STATE OF ARIZONA
Department of Transportation

By 
ROSS OVERSON, JR.
Mayor *CRISTIAN R. PATTERSON*

By 
DALE BUSKIRK, Division Director
Transportation Planning Division

ATTEST

By 
BETTY CLANTON
City Clerk

RESOLUTION NO. 397

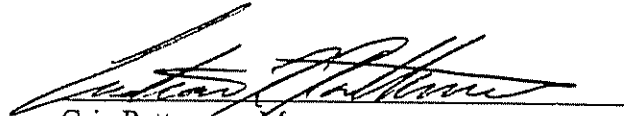
A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY
OF ST. JOHNS APPROVING ADOPTION AND EXECUTION OF
A.D.O.T. HURF EXCHANGE PROGRAM.

WHEREAS the State of Arizona is empowered by A.R.S. § 28-6993 (g) to enter into a Hurf exchange program with the City of St. Johns on project number HRF-STJ-0-784;


AND WHEREAS the City is empowered by A.R.S. § 48-572 to enter into the aforesaid agreement with the State of Arizona;

NOW THEREFORE BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ST. JOHNS, ARIZONA, that the intergovernmental agreement between the department of transportation, the State of Arizona and the City of St. Johns is hereby approved by the City of St. Johns for the exchange of \$419,000.00 of highway users revenue funds for the fiscal year 2003 for construction of improvements to Fourth Street North as fully set forth in the attached intergovernmental agreement between the State of Arizona and the City of St. Johns.

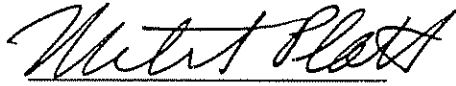
PASSED this 9 day of ~~September~~^{October}, 2003 by the Mayor and Council of the City of St. Johns, Arizona.


Cris Patterson, Mayor

ATTEST:


Betty Clanton, Clerk

APPROVED AS TO FORM:


Mitchel Platt, City Attorney

APPROVAL OF THE ST. JOHNS ATTORNEY

I have reviewed the above referenced intergovernmental agreement between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the CITY OF ST. JOHNS, an agreement among public agencies which, has been reviewed pursuant to A.R.S. section 11-951 through 11-954 and declare this agreement to be in proper form and within the powers and authority granted to the CITY under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement

DATED this 26th day of August, 2003.

Walter Platt

City Attorney



OFFICE OF THE ATTORNEY GENERAL
STATE OF ARIZONA

TERRY GODDARD
ATTORNEY GENERAL

CIVIL DIVISION
TRANSPORTATION SECTION
WRITER'S DIRECT LINE 602.542.8855

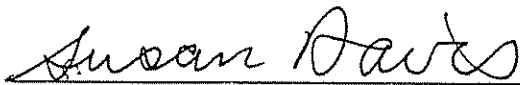
INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. KR03-1032TRN (JPA 03-051), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED December 4, 2003.

TERRY GODDARD
Attorney General



SUSAN E. DAVIS
Assistant Attorney General
Transportation Section

/ss

att.